

Joint Board, and as the Joint Board recognized in the Recommended Decision,⁴⁴ “affordability” has both objective and subjective components and varies according to both the income levels and prices charged to discrete groups of consumers. In order to be consistent with these principals and produce more accurate results, the discount matrix should therefore be modified to adjust for per capita income levels. This observation is clearly supported by Section 254(h)(1)(B) of the 1996 Act, which requires that the discount be an amount “necessary to ensure affordable access to and use of such services . . .” (emphasis added).⁴⁵ In fact, by not directly factoring in income levels, the discount matrix would appear to be inconsistent with Section 254(h)(1)(B).

The Commonwealth therefore suggests that the income level of the district surrounding a school or library⁴⁶ should be added to the discount matrix as a source of adjusting the gradations produced by the proxy, in a similar manner to the discount matrix’s adjustments for cost level. The Commonwealth believes that such a change will largely correct the flaws of the existing matrix without requiring the use of an entirely new proxy.

from the consumer prospective).

⁴⁴ See Recommended Decision at ¶ 125-126 (concluding that “affordability” has both absolute and relative components, and that factors such as local calling area size, income levels, cost of living, population density, and other socio-economic factors must be considered in addition to rates); ¶ 364 (discussing the need to focus on the needs of low-income consumers in addition to the FCC’s traditional emphasis on rates); ¶ 379 (noting the mandate in Section 254(b) that universal service should be available for low-income individuals in all regions of the nation).

⁴⁵ 47 U.S.C. § 254(h)(1)(B).

⁴⁶ In the case of the Commonwealth, the Commission should simply use the overall per capita income of the Commonwealth.

As demonstrated above, such an adjustment would also be well-founded within the findings of the Recommended Decision.

**C. A Unique Solution Regarding Health Care
Support Needs to Be Fashioned for the Commonwealth**

Due to the unusual problems posed both by the Commonwealth's insularity and by its resident's dispersal over several separate islands, the Commission must develop a unique universal service mechanism for delivering support to the Commonwealth's health care providers. As demonstrated below, the Joint Board's existing "rural rate" model for determining such support does not address the Commonwealth's problems and will, if adopted unchanged, produce discriminatory and inadequate levels of funding.

1. Background

A brief review of the Commonwealth's geography, local government and health care system is helpful.

Geography--As discussed previously, the Commonwealth is composed of fourteen islands.⁴⁷ The Commonwealth's population of 58,846 persons is divided primarily between the three islands of Saipan, Tinian and Rota. Saipan, the largest of the Commonwealth's islands, has a total land area of 184.5 square miles⁴⁸ and has 52,698 residents.⁴⁹ The island of Tinian, which is located 2.75 miles south of Saipan, has a total land area of 39 square

⁴⁷ See Exhibit A.

⁴⁸ Don A. Farrell, History of the Northern Mariana Islands at 28 (Phyllis Koontz ed., Public School System of the Northern Mariana Islands, 1991).

⁴⁹ Stewart, supra, at 1.

miles⁵⁰ and 2,631 residents.⁵¹ The island of Rota is 73 miles south-southwest of Saipan⁵² and has 3,509 residents.⁵³ While approximately 89% of the Commonwealth's residents live on Saipan, the Commonwealth cannot be classified into separate "urban" and "rural" areas. Although the population density varies somewhat within each of the islands, all three -- including Saipan -- are in fact rural areas.

Health Care System--Although there are several small, private medical and dental clinics located on the island of Saipan, the principal provider of health care facilities throughout the Commonwealth is the Department of Public Health ("Department"), which is operated by the Commonwealth government.⁵⁴ The Department operates health centers on Saipan, Tinian and Rota, and also maintains dispensaries each of the Commonwealth's other inhabited islands.⁵⁵ According to a recent estimate, the Department treats over 4,000 patients a month throughout the Commonwealth.⁵⁶

The Commonwealth currently lacks the facilities, medical specialists and trained personnel to provide advanced or specialized health care.⁵⁷ These shortcomings make it

⁵⁰ Farrell, supra, at 28.

⁵¹ Stewart, supra, at 1.

⁵² Farrell, supra, at 28.

⁵³ Stewart, supra, at 1.

⁵⁴ See Report on the State of the Islands, supra, at 42.

⁵⁵ See id.

⁵⁶ See id.

⁵⁷ See id. at 43.

necessary for the Department to make frequent off-island referrals for many patients. Such referrals typically require that the patient and other medical personnel must travel by air to Hawaii or sometimes Guam, which entails significant public costs. For example, to send a single patient to Hawaii for treatment, the Department must book the equivalent space of six airplane seats for the patient (who is carried on a stretcher), 1 seat for a family escort, 1 seat for a Department doctor, and 1 seat for a nurse at a total estimated airfare of \$7,741.80.⁵⁸ The cumulative costs of such air transport are staggering: the Department paid \$6,654,229 to transfer 362 patients to Hawaii and \$544,985 to transfer 212 patients to Guam between October, 1995 and September, 1996. Besides battering the Department's budget, the removal of acutely ill or injured persons to off-island facilities subjects them to both treatment delays and transport-related risks to their health and safety. These costs, of course, cannot be measured.

Even when the physical transport of patients is not necessary, health care providers in the Commonwealth must frequently make long-distance calls to off-island points for purposes of diagnosis, research, or coordination. It should be noted in this context that the Department does not currently have adequate telemedicine facilities, a shortcoming which contributes to the necessity for risky and costly off-island patient referrals.⁵⁹

The Commonwealth's budgetary problems underscore the importance of affordable telecommunications to its health care providers. Lower rates would allow such providers to

⁵⁸ The airfare cited above does not include an additional estimated charge of \$617.00 for transporting oxygen, as needed by the patient.

⁵⁹ See Report on the State of the Islands, *supra*, at 43.

not only lower their existing outlays for basic services but would also allow them to use time and cost-intensive telemedicine services such as high speed data transmission, medical imaging, provider-to-provider and provider-to-patient consultations, or voice and video transmissions with other medical facilities.⁶⁰ Such advanced services would allow health care providers in the Commonwealth to make better, less expensive diagnostic evaluations without the need for frequent travel, and -- since they would allow direct links to geographically distant health care facilities and specialists -- should reduce the need for risky and costly off-island patient referrals.

2. The Commonwealth Experiences Interisland Rate Disparities, Not Urban/Rural Disparities

The Joint Board has recommended that the Commission provide universal service support to rural health care providers up to the differential with their state's "urban rate," which the Joint Board defines as "the highest tariffed or publicly available rate actually being charged to commercial customers within the jurisdictional boundaries of the nearest large city in the state . . ." to the health care provider's location.⁶¹ Such an urban/rural differential would serve the Commonwealth poorly since, as discussed above, the Commonwealth is virtually entirely rural. Worse, the rate disparities which exist in the Commonwealth do not exist between urban and rural areas located on each island, since

⁶⁰ See Recommended Decision at ¶ 651. The Joint Board suggests that these services, suggested by the Health Care Advisory Committee as a "market basket" group currently available in urban areas, are among those which need to receive universal service support. The Commonwealth agrees.

⁶¹ See Recommended Decision at ¶¶ 667-668.

intra-island calls are provided as part of local service.⁶² Instead, rate disparities in the Commonwealth exist for intra-island calls within the islands of Saipan, Tinian and Rota, on the one hand, and interisland calls between the three islands, on the other. MTC provides interisland calls on a 1+ dialing basis and charges \$0.25 per minute for direct dialed calls,⁶³ whereas no charge is assessed for intra-island calls. Since health care providers serving the Commonwealth make frequent interisland calls to patients and facilities, such interisland charges exact a significant cost even though they are essentially for “local” traffic within the Commonwealth.

3. The Recommended Mechanism for Calculating Health Care Support Does Not Accommodate the Commonwealth

The Joint Board’s definitions of “rural” and “urban” are also highly problematic. First, the Joint Board proposes to define “rural areas” as “non-metro counties (or county equivalents) as identified by the OMB [Office of Management and Budget], together with non-metro counties identified in the most currently available “Goldsmith Modification” of the MSA [Metropolitan Statistical Area] . . .”⁶⁴ In point of fact, the Commonwealth has no counties, and since both the model and the “Goldsmith Modification” corrective mechanism use counties as their basic unit of measurement,⁶⁵ it is completely unclear how these

⁶² The page from MTC’s telephone book for the Commonwealth which sets forth the dialing protocols and rates for making interisland calls is attached as Exhibit E.

⁶³ Id.

⁶⁴ Recommended Decision at ¶ 693.

⁶⁵ As the Joint Board explains, the Goldsmith Modification “identifies densely populated census tracts or blocks within large metro counties (covering at least 1250 square miles)

definitions would be applied to the Commonwealth. Second, the Joint Board also proposes to define “urban areas” based upon “the jurisdictional boundaries of larger cities” in order to minimize the chance of including distance-based rates or lower-density rates within the comparison.⁶⁶ Since the Commonwealth lacks either major cities or counties, such a definition would again seem to exclude the Commonwealth.

4. A Unique Solution Must Be Devised for
Calculating Universal Service Support for
Health Care Providers in the Commonwealth

As demonstrated above, the Joint Board’s current recommendations regarding support for rural health care providers must be modified so that adequate and nondiscriminatory levels of universal service funding are provided in the Commonwealth. The Commonwealth suggests that in order that telecommunications services are made truly affordable to the Commonwealth’s health care providers, the Commission must recognize both that the Joint Board’s “rural rate” is an inappropriate mechanism for the Commonwealth and that merely eliminating the urban/rural discrepancy addressed in Section 254(h)(1) will not be an adequate solution to the Commonwealth’s high rates. It will therefore be necessary to devise a unique solution that addresses the Commonwealth’s cost problems.

The Commonwealth therefore suggests the following two possible approaches:

thus allowing easy separation of these tracts and blocks from the rural tracts in the county” as a means of correcting shortcomings in the OMB MSA methodology. Id. at ¶ 690. This modification therefore seems to exclude non-county areas such as the Commonwealth, and illustrates the need for another means of calculating the level of universal service support.

⁶⁶ See id. at ¶ 695.

Authorize Interstate Support for Health Care Providers in the Commonwealth--In the case of the Commonwealth, the Commission should allow a universal service subsidy to all telecommunications services used by the Commonwealth's health care providers, regardless of whether such services are intrastate or interstate. As discussed in the Recommended Decision, the Conference Report to the 1996 Act explained that Section 254(h) was intended to "ensure that health care providers for rural areas . . . have affordable access to modern telecommunications services that will enable them to provide medical . . . services to all parts of the nation."⁶⁷ For purposes of access to the Internet and to telemedicine services, Section 254(h)(2) clearly establishes that the Commission may establish competitively neutral rules to enhance access to such services by health care providers.⁶⁸ As the Joint Board further notes, Section 254(h)(1)(A) strongly suggests that universal service support is intended to eliminate distance-based rate disparities so that telecommunications services will be affordable to rural health care providers.⁶⁹ Since the Commonwealth is essentially a rural area relative to more populated points in Hawaii, Guam, or the mainland; since much of the

⁶⁷ See Joint Explanatory Statement of the Committee of Conference, H.R. Rep. No. 104-458, 104th Cong., 2nd Sess. 132 (1996) ("Joint Explanatory Statement"). As the Joint Board points also points out, Section 254(c)(3) of the 1996 Act gives the Commission considerable discretion to define universal service in such a way as to address "the particular needs" of public institutions such as the Department. See Recommended Decision at ¶ 635, citing Joint Explanatory Statement at 133.

⁶⁸ 47 U.S.C. § 254(h)(2)(A).

⁶⁹ 47 U.S.C. § 254(h)(1)(A). Although the Joint Board concludes that this provision "strongly" suggests that universal service support should be provided to make such interexchange rates comparable to urban rates, the Joint Board declines to recommend such support due to its finding of insufficient information regarding the costs of supporting "distance-based and LATA crossing charges" for rural health care providers. See Recommended Decision at ¶ 672. The Joint Board does recommend, however, that the Commission take this issue into consideration. Id.

cost of telecommunications for the Commonwealth's health care providers derives from calls to off-island locations; and since U.S. citizens are currently subjected to life-threatening risks due to the need to physically transport them from the Commonwealth to off-island health care facilities, the Commission would be justified giving universal service support to interstate services under principles of Section 254(h).⁷⁰

In addition to the above, the Commonwealth notes that Section 254(g) requires the Commission to average rates on a national level so that charges to all subscribers in rural and insular areas will be no higher than those in urban areas.⁷¹ Since health care providers are subscribers just like residential and business customers, the Commonwealth believes that Section 254(h)(1)(A) should be read in light of Section 254(g) and interpreted to eliminate both interstate and intrastate rate disparities between urban and rural areas.

Alternatively, Define Saipan As An Urban Area and Define All Other Points Within the Commonwealth as Rural Areas--Since there is no rate differential between rural and urban areas among the Commonwealth's islands for intra-island calls, as explained above, rural health care providers in the Commonwealth would not benefit from universal service support provided on an island-specific basis. The Commonwealth believes that the FCC can

⁷⁰ For the same reasons, the Commonwealth agrees with the Office of Rural Health Policy ("ORHP") that the Commission should provide support to allow the availability of toll-free Internet services to rural health care providers. See Comments of the ORHP to the Notice of Proposed Rulemaking and Order Establishing Joint Board in CC Dkt. No. 96-45, at 7-8 (Apr. 12, 1996) and Recommended Decision at ¶ 663. The Commonwealth believes such access is essential to making the Internet affordable to health care providers in the Commonwealth, and will serve to eliminate the cost-based disparity in the Internet's availability that exists between rural and urban areas.

⁷¹ 47 U.S.C. § 254(g).

prevent such a result through the simple yet workable solution of explicitly recognizing Saipan as an “urban” area and Tinian and Rota as “rural” areas. Such a ruling would be justified for two reasons. First, callers between the islands must pay the interisland rate differential of \$0.25 a minute. Second, since Saipan is the most highly developed and has by far the greatest population density,⁷² Saipan most clearly resembles an “urban area” of all points within the Commonwealth. Such a definition would considerably reduce the costs of health care providers for such interisland calls, and would ensure that universal service support was provided at a fair rate within the Commonwealth. Moreover, as part of its rulemaking authority under Section 254(h)(1) the Commission clearly has the authority to implement such an approach.

**D. Single-Line Businesses in the Commonwealth
Should Receive the Same Level of
Universal Service Support as Residential Lines**

In the Recommended Decision, the Joint Board finds that there are “general similarities between residential and single-line business customers”⁷³ and recommends that single-line businesses located in rural, insular, and other high cost areas should receive universal service support.⁷⁴ The Joint Board suggests, however, that “a reduced level of support may be appropriate” compared with residential lines.⁷⁵ While the Commonwealth

⁷² See supra at 18-19.

⁷³ Recommended Decision at ¶ 91.

⁷⁴ Id.

⁷⁵ Id. at ¶¶ 91-92.

agrees that such businesses should receive universal service support, it strongly encourages the Commission to provide such support at a level equal to residential lines. Such a finding is justified not only by the Recommended Decision but also by Commission precedent.

As the Commonwealth has previously stated, small businesses located in rural, insular and high-cost areas are clearly “consumers” of telecommunications services and suffer the same affordability problems as residential users.⁷⁶ The Joint Board essentially agrees, stating in the Recommended Decision that residential and single-line business consumers have “general similarities” and that both rely on telecommunications for health, safety, and employment purposes.⁷⁷ Moreover, the Joint Board found that single-line business located in high-cost areas benefit from universal service support, noting that while the cost of service is unlikely to cause a “multiple connection business not to subscribe to telephone service,” high prices may be prohibitive for single-line businesses.⁷⁸ Despite this factfinding, however, the Joint Board concludes that single-line businesses should not receive the same level of universal service support as residential customers and that such support should be calculated on a different basis.⁷⁹

The Commonwealth strongly believes that under the Joint Board’s own rationale,

⁷⁶ See Initial Comments at 16 and Further Comments at 3.

⁷⁷ Recommended Decision at ¶¶ 91-92.

⁷⁸ Id.

⁷⁹ Id. at ¶ 92. Specifically, the Joint Board recommends business lines initially receive a lower level of support than residential lines in the same area, and that the Commission use the amount of revenue generated per business line as a benchmark for determining the amount of support carriers should receive.

single-line businesses should not be treated differently from residential consumers. As discussed previously, it is clear that single-line businesses and residential consumers located in insular areas face prohibitive costs for telecommunications services in the absence of universal service support, and such costs clearly depress subscribership.⁸⁰ The Commonwealth believes that providing a different, lesser amount of universal service support to single-line businesses would permit business rates to remain disproportionately high,⁸¹ substantially increasing the costs of small, start-up business and discouraging badly-needed entrepreneurship. Since businesses located in insular areas such as the Commonwealth rely heavily upon interexchange services such as telephone calls, faxes, and the Internet in order to conduct business because of the Commonwealth's geographic isolation and fragmentation between separate islands,⁸² imbalanced and unaffordable rates would continue to burden economically fragile single-line businesses.

The Commission has previously found that due to their lack of bargaining power, purchasing clout or market alternatives, single-line businesses should in some circumstances

⁸⁰ See id. at ¶ 91 (stating that without support rates may be prohibitively expensive for both residential and single-line business users).

⁸¹ Id.

⁸² See Initial Comments at 5-6, 16 (noting that consumers in the Commonwealth are more dependent upon long distance, interexchange telecommunications services as a means of contacting the contiguous U.S. due to the prohibitive expense of travel and the slowness of mail and package services). See also supra at 23-25 (discussing the \$0.25/minute surcharge assessed by MTC for making interisland calls within the Commonwealth).

be treated similarly to residential telecommunications customers.⁸³ The Commonwealth respectfully encourages the Commission to extend this reasoning and, based upon the Joint Board's own factfinding, rule that single-line business consumers located in insular areas should receive the same level of universal service support as residential lines.

III. RECOMMENDATIONS SUPPORTED BY THE COMMONWEALTH

Notwithstanding the foregoing proposed modifications, the Commonwealth supports the vast majority of the Joint Board's recommendations. The following recommendations, supported by the Commonwealth, are worthy of special emphasis.

A. The Lifeline Support Program Should be Federalized

The Commonwealth strongly supports the Joint Board's recommendation that the Lifeline program be entirely federalized so that the availability of funding for basic services to low-income consumers will no longer depend upon the state participation in the program.⁸⁴ The Commonwealth is one of the several U.S. states and territories which do not currently participate in Lifeline, and the Joint Board's decision to make funding available to all low-income consumers regardless of state participation will clearly aid the

⁸³ See In the Matter of MIS and WATS Market Structure, Memorandum Opinion and Order, 101 FCC 1222, at ¶¶ 39-42 (1995)(ruling that single-line businesses and residential consumers should pay the same SLC in the interest of affordability and efficient use of the public switched network).

⁸⁴ Recommended Decision at ¶¶ 381-383. The Lifeline program is currently established by state regulators and funded through both state and federal universal service funding contributions. See FCC, Preparation for Addressing Universal Service Issues: A Review of Current Interstate Support Mechanisms, at "Explicit Support Mechanisms: Lifeline and Link Up" (Feb. 23, 1996). Although the program is apparently effective at encouraging subscribership, several U.S. states and territories -- including the Commonwealth -- have not established a Lifeline program.

Commonwealth's residents by eliminating the discriminatory practices built in to the present system.

Moreover, the Commonwealth believes that the policy of allowing the availability of universal service support to depend upon state participation would, if continued, violate Section 254(b)(3)'s requirement that consumers in all regions of the nation should have access to affordable telecommunications services.⁸⁵ The Commonwealth interprets this provision of the 1996 Act to mandate a proactive and aggressive federal role in addressing affordability problems which exist for consumers at the local level. The Commonwealth therefore suggests that the Commission use the actual effectiveness with which a universal service mechanism delivers support to end users as a benchmark for whether the mechanism meets Section 254(b)'s mandates.

B. The Link Up Program Should Be Federalized

The Commonwealth supports the Joint Board's recommendation that the Link Up program be removed from the Commission's jurisdictional separations rules,⁸⁶ that the program be centrally and explicitly funded through the Commission's universal service mechanisms,⁸⁷ and that a basic federal eligibility standard be established.⁸⁸ If adopted, these measures will federalize the Link Up program and -- as with the Lifeline program -- increase

⁸⁵ 47 U.S.C. § 254(b)(3).

⁸⁶ Recommended Decision at ¶ 426.

⁸⁷ Id. at ¶¶ 467-468.

⁸⁸ Id. at ¶ 428.

the availability of Link Up support for low-income consumers throughout the U.S.

C. Toll Limitation Services Should Receive Universal Service Support

The Commonwealth agrees with the Joint Board that toll-limitation services should receive universal service support, which will permit consumers to block long-distance toll calls free of charge.⁸⁹ By extending universal service support to toll limitation services and thus making such services more affordable, low-income consumers (such as those in the Commonwealth) will be better able to control potentially costly long-distance charges.

The Commonwealth also supports the Joint Board's related recommendation that any carriers currently eligible for universal service support which lack toll-blocking capability be required to add it in any future switch upgrades.⁹⁰ Such a policy balances the public benefits of toll-blocking against the short-term costs of adding such capacity to networks which do not already have this capability.

**D. Carriers Receiving Universal Service Support
Should Be Barred From Disconnecting
Lifeline Service for Nonpayment of Toll
Charges, Although Subject to a Limited Waiver**

The Commonwealth supports the Joint Board's recommendation that the Commission prohibit carriers which receive universal service support from disconnecting

⁸⁹ Id. at ¶ 384.

⁹⁰ Recommended Decision at ¶ 385. The Joint Board recommends that only those carriers which currently have the capability to offer toll blocking must do so, and that the minority of carriers which do not have this capability may continue to be eligible for support until such an upgrade. Id.

Lifeline service for the nonpayment of toll charges.⁹¹ In its comments, the Commonwealth noted that many of its low-income residents suffer disconnection of their local telephone service due to nonpayment of toll charges for off-island calls.⁹² Such residents are frequently unable to afford the high deposits necessary to gain re-connection to the public network, which discourages subscribership and thereby harms public health and safety.⁹³ Since the disconnection of such customers would prevent them from making local calls to emergency services, health care providers, and other local calls, the Commonwealth therefore believes that disconnection would undermine the policies underlying the Lifeline program.

In the interest of regulatory flexibility, however, the Commonwealth also agrees with the Joint Board that a carrier should be allowed a limited waiver of any prohibition on disconnecting Lifeline recipients if the carrier demonstrates that: 1) it will incur substantial costs in complying with the ban; 2) that toll-blocking was available to its Lifeline subscribers at no charge; and 3) that telephone subscribership is at least as high as the national average for low-income consumers.⁹⁴ Such a waiver limits the economic harm that carriers will suffer in situations where the Lifeline recipients have been irresponsible and where disconnection will not clearly harm the subscribership rate.

⁹¹ Id. at ¶ 387.

⁹² Initial Comments at 19.

⁹³ Id. at 19-20.

⁹⁴ Id. at ¶ 388.

**E. Lifeline Customers Receiving Toll-Blocking
Services Should Not Be Required to Pay Service Deposits**

In the interest of further encouraging subscribership, the Commonwealth agrees with the Joint Board that the Commission should prohibit carriers from requiring service deposits to initiate service if a Lifeline recipient elects to receive toll-blocking.⁹⁵ Since toll-blocking prevents access to long-distance toll calls, it therefore removes much of the risk that a low-income consumer will amass charges which they will be unwilling or unable to pay.

**F. Carriers Serving Insular Areas Should be
Indefinitely Exempted from Cost Proxy Models**

The Commonwealth agrees with the Joint Board that carriers serving the insular areas and Alaska should be given an indefinite exemption until the Commission's proxy model has been proven.⁹⁶ As demonstrated in the comments filed by the Virgin Island Telephone Company ("Vitelco") and the Alaska Telephone Association ("ATA"), carriers which serve remote or insular areas must contend with a variety of unusual service plant and maintenance expenses which drive up their costs.⁹⁷ While the new proxy model will hopefully be more effective at addressing these costs than previous versions, the

⁹⁵ Id. at ¶ 389.

⁹⁶ Recommended Decision at ¶¶ 285, 298, 434.

⁹⁷ See Further Comments of the Vitelco to the Notice of Proposed Rulemaking and Order Establishing Joint Board in CC Dkt. No. 96-45, at 10-11 (May 7, 1996)(noting costs of serving a remote area composed of several islands, which are compounded by storm damage and corrosion); Comments of ATA to the Notice of Proposed Rulemaking and Order Establishing Joint Board in CC Dkt. No. 96-45, at 2, (May 7, 1996)(noting that due to Alaska's large service area, rough terrain and harsh weather, combined with a small number of lines, the costs of Alaska's carriers do not fit within any statistical model).

Commonwealth believes it is wise to forbear using such a proxy in the insular areas and Alaska until the accuracy of the model has been fully demonstrated.

**G. Comsat Should Not Be Granted an
Exemption From Universal Service Contributions**

The Commonwealth agrees with the Joint Board's determination that Comsat Corporation ("Comsat") must contribute to the universal service support mechanism since it provides interstate services.⁹⁸ Section 252(d) of the 1996 Act requires that all interexchange carriers contribute.⁹⁹ There are no exceptions. Although Comsat argues that its is "largely" precluded from offering interstate service within the U.S. due to the terms of its license,¹⁰⁰ the Governor of Guam demonstrated in its comments that Comsat does in fact offer interstate services between Pacific points such as Guam, the Commonwealth, and Hawaii, and the U.S. mainland.¹⁰¹ Such clearly interstate calls demonstrate that Comsat is in fact an interexchange carrier, and should pay universal service funding contributions for such calls.

⁹⁸ Recommended Decision at ¶¶ 781, 784.

⁹⁹ 47 U.S.C. § 254(d).

¹⁰⁰ Comments of Comsat Corporation to the Notice of Proposed Rulemaking and Order Establishing a Joint Board in CC Dkt. No. 96-45 at 2, 5-6, 7-9 (April 12, 1996). Specifically, Comsat points out that the Commission has refused to allow Comsat to offer domestic interexchange service pending the outcome of further rulemaking regarding the use of the domestic and international satellite spectrums. Id.

¹⁰¹ See Reply Comments of the Governor of Guam to the Notice of Proposed Rulemaking and Order Establishing a Joint Board in CC Dkt. No. 96-45, at 6 (May 7, 1996); see also Reply Comments of Guam Telephone Authority to the Notice of Proposed Rulemaking and Order Establishing a Joint Board in CC Dkt. No. 96-45, at 3 (May 7, 1996).

H. Subscribership Levels Should Be Used in Determining Affordability

The Commonwealth enthusiastically supports the Joint Board's conclusion that calling area size, income levels, costs of living, population density, and other socio-economic factors must be considered when determining what level of universal service support will ensure "affordable" rates.¹⁰² In its past comments, the Commonwealth advocated the principle that the "affordability" of telecommunications rates must be determined from the viewpoint of the consumer, taking into account factors such as per capita income as well as objective costs.¹⁰³ Moreover, the Commonwealth fully agrees with the Joint Board's finding that a general correlation exists between affordability and subscribership rates.¹⁰⁴ Among other data, the Joint Board's conclusion is clearly supported by the example of low incomes, high rates and depressed subscribership suffered by many of the Commonwealth's residents.¹⁰⁵

I. Support Should Be Provided for the Internal Connections and Inside Wiring of Eligible Schools and Libraries

The Commonwealth supports the Joint Board's recommendation that universal

¹⁰² Recommended Decision at ¶¶ 125-126.

¹⁰³ Initial Comments at 14-16.

¹⁰⁴ Recommended Decision at ¶ 132. The Joint Board correctly notes that while subscribership levels are not absolutely dispositive, they do provide an objective measure of whether rates are truly affordable to consumers. Id.

¹⁰⁵ See id. at 3-4, 9-11 (discussing the link between the low per capita income rates, high rates and depressed penetration rate in the Commonwealth); see also Further Comments at 4-6 (arguing that Congress did not intend "affordability" to be understood in anything other than its common meaning, and that the 1996 Act required aggressive measures to address actual, subjective problems suffered by low-income consumers in purchasing telecommunications services).

service support be provided for the internal connections and internal wiring necessary to link eligible schools and libraries to the public telecommunications network.¹⁰⁶ The Commonwealth believes that subsidizing such connections clearly fits within Section 254(h)(2)(A)'s far-reaching mandate that the Commission establish universal service programs that "enhance, to the extent technically feasible and economically reasonable, access to advanced telecommunications and information services" for all such institutions.¹⁰⁷ Universal service funding will encourage schools and libraries with especially strict funding limitations to have adequate wiring installed to support extensive access to services such as the Internet -- an incentive especially important in low-income areas such as the Commonwealth. Moreover, the Commonwealth supports the Joint Board's apparent recognition that such support must include internal connections inside buildings and include routers, hubs, network file servers, and wireless LANs where necessary.¹⁰⁸

J. Internet Access By Eligible Schools and Libraries Should Receive Universal Service Support

The Commonwealth supports the Joint Board's recommendation that eligible schools and libraries should receive universal service support for access to the Internet.¹⁰⁹ As the Commonwealth demonstrated in its comments, Internet access is extremely expensive in the Commonwealth and will be a mounting burden for the Commonwealth's schools and

¹⁰⁶ Id. at ¶¶ 473-477.

¹⁰⁷ 47 U.S.C. § 254(h)(2)(A).

¹⁰⁸ Recommended Decision at ¶¶ 477-478.

¹⁰⁹ Id. at ¶¶ 462-464.

libraries as on-line communications become increasingly important for education.¹¹⁰

K. Health Care Providers Should Have Flexibility to Choose Which Services Receive Universal Service Support

The Commonwealth believes that the Joint Board is well justified in recommending that the Commission allow rural health care providers flexibility to choose which telecommunications services should receive universal service support.¹¹¹ The Commonwealth believes that the utility of a given level of universal service support will be maximized if health care providers are allowed to make their own choices about which telecommunications services they need most.

L. The Definition of Universal Service Should be Reviewed Periodically

The Commonwealth agrees with the Joint Board that the definition of universal service should be revised periodically.¹¹² Such revisions are appropriate given the pace and scope of change in the telecommunications market, and are firmly grounded in Section 254(c)'s definition of universal service as "an evolving level of telecommunications services."¹¹³

M. A Universal Service Advisory Board Should Be Created

In addition to periodically reconvening the Joint Board, the Commonwealth believes that it is desirable and appropriate that a "universal service advisory board" administer the

¹¹⁰ Initial Comments at 13-14; Further Comments at 8-9.

¹¹¹ Recommended Decision at ¶ 654.

¹¹² Id. at ¶ 110.

¹¹³ 47 U.S.C. § 254(c)(1).

universal service support mechanisms on an ongoing basis. The Commonwealth therefore supports the recommendation of the Joint Board that such an advisory board be created and funded through the support mechanism.¹¹⁴

N. The Commission Should Not Implement Any of the Current Proxy Models

The Commonwealth supports the decision of the Joint Board not to recommend any of the proxy models that were submitted in this proceeding.¹¹⁵ As the Commonwealth noted in its previous comments, these models did not include either the Commonwealth, Alaska, or the other U.S. Pacific Territories such as Guam and American Samoa in their factoring, and would therefore have produced inaccurate and discriminatory results.¹¹⁶ While the Commonwealth generally agrees that proxy models can be useful, the Commonwealth insists that any proxy used to calculate universal service support levels must include such insular areas and must address the costs of serving their residents.

O. The Competitive Bidding Approach Must Be Rejected

The Joint Board is correct to reject the use of competitive bidding as an approach for determining universal service support.¹¹⁷ As the Commonwealth has previously demonstrated, competitive bidding would likely work only in competitive markets served by

¹¹⁴ Recommended Decision at ¶ 830.

¹¹⁵ Id. at ¶¶ 268, 281, 341.

¹¹⁶ See Further Comments at 6-7.

¹¹⁷ Recommended Decision at ¶ 341.

several carriers.¹¹⁸ For example, since competitive local service markets presently do not exist in the Pacific insular areas, a competitive bidding process would therefore be useless.¹¹⁹ While the Commonwealth is not opposed to further study of this issue, the current lack of local service competition in insular areas such as the Commonwealth demonstrates that the Commission must approach such proposals with extreme caution and skepticism.

P. No Additional Eligibility Standards Should Be Adopted

The Joint Board is correct in rejecting the arguments that the Commission should impose additional eligibility requirements for universal service in addition to those specified in Section 214(e)(1) of the 1996 Act.¹²⁰ Specifically, several parties requested that the Commission require new market entrants to meet all of the regulatory obligations imposed on incumbent local exchange carriers (“LECs”) as a matter of “symmetrical regulation.”¹²¹ As the Joint Board correctly reasoned, the incumbent LECs are already protected against unfair competition by the literal requirements of Section 214(e)(1), which clearly prevents

¹¹⁸ Initial Comments at 18. See also Recommended Decision at n.1023 (noting the point made in the Commonwealth’s Initial Comments that the markets most in need of support are unlikely to see much competition, and that bidding is of no utility in uncompetitive markets).

¹¹⁹ Id. It should also be noted that in Guam and American Samoa, the local exchange carriers are still government-owned. Such variations demonstrate the need for caution in adopting competitive bidding on a national level.

¹²⁰ Recommended Decision at ¶ 156.

¹²¹ Id.

carriers from offering differential rates.¹²² Accordingly, the Commonwealth agrees that incumbent LECs need no further protection against the “cream skimming” of customers by competitors and believes that any such “symmetrical regulation” requirement would needlessly burden the market entry of new carriers.

Q. There Should Be No Increase in Subscriber Line Charges

The Commonwealth supports the Joint Board’s recommendation that there should be no increase in the current subscriber line charge (“SLC”) cap of \$3.50.¹²³ Due to the low per capita income of the Commonwealth’s residents, the current SLC has a disproportionate impact upon the Commonwealth’s telecommunications consumers.¹²⁴ For this reason, the Commonwealth supports the eventual reduction of the SLC if the Commission ultimately assesses universal service contributions based upon carrier’s interstate and intrastate revenues, as suggested by the Joint Board.¹²⁵

R. The Commonwealth Strongly Endorses the Joint Board’s Definition of Interstate Communications

In the Recommended Decision, the Joint Board defines “states” to “refer to all the

¹²² Id.

¹²³ Id. at ¶¶ 753-754.

¹²⁴ See Initial Comments at n.28. Even though the Commonwealth has traditionally been treated as an “international point” for ratemaking purposes, its ratepayers were nonetheless assessed the SLC. As the Commission is now aware, these requirements doubly burdened the Commonwealth’s consumers.

¹²⁵ See Recommended Decision at ¶¶ 769-772.

states, territories, and commonwealths within the jurisdiction of the United States.”¹²⁶ The Commonwealth strongly supports this explicit recognition that U.S. points such as the Commonwealth -- which are not “states” in the traditional sense -- are encompassed within the Commission’s universal service support mechanisms and are properly considered interstate locations. The Commonwealth believes that this definition would serve to prevent any oversight of the interests of the Commonwealth and other insular areas. Accordingly, the Commonwealth requests that the Commission integrate this definition verbatim into any final order it adopts regarding universal service.

¹²⁶ Id. at n.1394 (emphasis added).